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H. R. 5788

To provide for the processing by U.S. Customs and Border Protection of certain international mail shipments and to require the provision of advance electronic information on international mail shipments of mail, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2018

Mr. BISHOP of Michigan (for himself, Mr. PASCRELL, Mr. REICHERT, and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Oversight and Government Reform, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the processing by U.S. Customs and Border Protection of certain international mail shipments and to require the provision of advance electronic information on international mail shipments of mail, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing the Inter-
5 national Mail Against Opioids Act of 2018”.

1 **SEC. 2. CUSTOMS FEES.**

2 (a) IN GENERAL.—Section 13031(b)(9) of the Con-
3 solidated Omnibus Budget Reconciliation Act of 1985 (19
4 U.S.C. 58c(b)(9)) is amended by adding at the end the
5 following:

6 “(D)(i) With respect to the processing of items
7 that are sent to the United States through the inter-
8 national postal network by ‘Inbound Express Mail
9 service’ or ‘Inbound EMS’ (as that service is de-
10 scribed in the mail classification schedule referred to
11 in section 3631 of title 39, United States Code), the
12 following payments are required:

13 “(I) \$1 per Inbound EMS item.

14 “(II) If an Inbound EMS item is formally
15 entered, the fee provided for under subsection
16 (a)(9), if applicable.

17 “(ii) Notwithstanding section 451 of the Tariff
18 Act of 1930 (19 U.S.C. 1451), the payments re-
19 quired by clause (i), as allocated pursuant to clause
20 (iii)(I), shall be the only payments required for reim-
21 bursement of U.S. Customs and Border Protection
22 for customs services provided in connection with the
23 processing of an Inbound EMS item.

24 “(iii)(I) The payments required by clause (i)
25 shall be allocated as follows:

1 “(aa) 50 percent of the amount of the pay-
2 ments shall be paid on a quarterly basis by the
3 United States Postal Service to the Commis-
4 sioner of U.S. Customs and Border Protection
5 in accordance with regulations prescribed by the
6 Secretary of the Treasury to reimburse U.S.
7 Customs and Border Protection for customs
8 services provided in connection with the proc-
9 essing of Inbound EMS items.

10 “(bb) 50 percent of the amount of the pay-
11 ments shall be retained by the Postal Service to
12 reimburse the Postal Service for services pro-
13 vided in connection with the customs processing
14 of Inbound EMS items.

15 “(II) Payments received by U.S. Customs and
16 Border Protection under subclause (I)(aa) shall, in
17 accordance with section 524 of the Tariff Act of
18 1930 (19 U.S.C. 1524), be deposited in the Customs
19 User Fee Account and used to directly reimburse
20 each appropriation for the amount paid out of that
21 appropriation for the costs incurred in providing
22 services to international mail facilities. Amounts de-
23 posited in accordance with the preceding sentence
24 shall be available until expended for the provision of
25 such services.

1 “(III) Payments retained by the Postal Service
2 under subclause (I)(bb) shall be used to directly re-
3 imburse the Postal Service for the costs incurred in
4 providing services in connection with the customs
5 processing of Inbound EMS items.

6 “(iv) Beginning in fiscal year 2021, the Sec-
7 retary, in consultation with the Postmaster General,
8 may adjust, not more frequently than once each fis-
9 cal year, the amount described in clause (i)(I) to an
10 amount commensurate with the costs of services pro-
11 vided in connection with the customs processing of
12 Inbound EMS items, consistent with the obligations
13 of the United States under international agree-
14 ments.”.

15 (b) CONFORMING AMENDMENTS.—Section 13031(a)
16 of the Consolidated Omnibus Budget Reconciliation Act
17 of 1985 (19 U.S.C. 58c(a)) is amended—

18 (1) in paragraph (6), by inserting “(other than
19 an item subject to a fee under subsection
20 (b)(9)(D))” after “customs officer”; and

21 (2) in paragraph (10)—

22 (A) in subparagraph (C), in the matter
23 preceding clause (i), by inserting “(other than
24 Inbound EMS items described in subsection
25 (b)(9)(D))” after “release”; and

1 (B) in the flush at the end, by inserting
2 “or of Inbound EMS items described in sub-
3 section (b)(9)(D),” after “(C),”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on January 1, 2020.

6 **SEC. 3. MANDATORY ADVANCE ELECTRONIC INFORMATION**
7 **FOR POSTAL SHIPMENTS.**

8 (a) MANDATORY ADVANCE ELECTRONIC INFORMA-
9 TION.—

10 (1) IN GENERAL.—Section 343(a)(3)(K) of the
11 Trade Act of 2002 (Public Law 107–210; 19 U.S.C.
12 2071 note) is amended to read as follows:

13 “(K)(i) The Secretary, with the concu-
14 rrence of the Secretary of State, shall prescribe
15 regulations requiring the United States Postal
16 Service to transmit the information described in
17 paragraphs (1) and (2) to the Commissioner of
18 U.S. Customs and Border Protection for inter-
19 national mail shipments by the Postal Service
20 (including shipments to the Postal Service from
21 foreign postal operators that are transported by
22 private carrier) consistent with the require-
23 ments of this subparagraph.

24 “(ii) In prescribing regulations under
25 clause (i), the Secretary shall impose require-

1 ments for the transmission to the Commissioner
2 of information described in paragraphs (1) and
3 (2) for mail shipments described in clause (i)
4 that are comparable to the requirements for the
5 transmission of such information imposed on
6 similar non-mail shipments of cargo, taking into
7 account the parameters set forth in subpara-
8 graphs (A) through (J).

9 “(iii) The regulations prescribed under
10 clause (i) shall require the transmission of the
11 information described in paragraphs (1) and (2)
12 with respect to a shipment as soon as prac-
13 ticable in relation to the transportation of the
14 shipment, consistent with subparagraph (H).

15 “(iv) Regulations prescribed under clause
16 (i) shall allow for the requirements for the
17 transmission to the Commissioner of informa-
18 tion described in paragraphs (1) and (2) for
19 mail shipments described in clause (i) to be im-
20 plemented in phases, as appropriate, by—

21 “(I) setting incremental targets for in-
22 creasing the percentage of such shipments
23 for which information is required to be
24 transmitted to the Commissioner; and

25 “(II) taking into consideration—

1 “(aa) the risk posed by such
2 shipments;

3 “(bb) the volume of mail shipped
4 to the United States by or through a
5 particular country; and

6 “(cc) the capacities of foreign
7 postal operators to provide that infor-
8 mation to the Postal Service.

9 “(v)(I) Notwithstanding clause (iv) and ex-
10 cept as provided in subclause (II), the Postal
11 Service shall, not later than December 31,
12 2018, arrange for the transmission to the Com-
13 missioner of the information described in para-
14 graphs (1) and (2) for not less than 70 percent
15 of the aggregate number of mail shipments de-
16 scribed in clause (i).

17 “(II)(aa) The requirements of subclause
18 (I) may be waived for a period of not more than
19 180 days if, not later than December 31,
20 2018—

21 “(AA) the Secretary and the Post-
22 master General, with the concurrence of
23 the Secretary of State, determine that
24 meeting those requirements is not feasible
25 because of the lack of capacity of foreign

1 postal operators to provide the Postal
2 Service with the information described in
3 paragraphs (1) and (2);

4 “(BB) the Secretary and the Post-
5 master General, with the concurrence of
6 the Secretary of State, determine that
7 meeting those requirements is not feasible
8 because of extraordinary reasons other
9 than lack of capacity of foreign postal op-
10 erators that are outside the control of the
11 Postal Service; or

12 “(CC) the Secretary of State deter-
13 mines that such a waiver is in the national
14 security interests of the United States.

15 “(bb) A waiver under item (aa) may be re-
16 newed for one additional period of not more
17 than 180 days if a determination described in
18 item (aa) is made for that period.

19 “(III) If the requirements of subclause (I)
20 are not met, the Comptroller General of the
21 United States shall submit to the appropriate
22 congressional committees, not later than Janu-
23 ary 31, 2020, a report—

24 “(aa) assessing the reasons for the
25 failure to meet those requirements; and

1 “(bb) identifying recommendations to
2 improve the collection by the Postal Serv-
3 ice of the information described in para-
4 graphs (1) and (2).

5 “(vi)(I) Notwithstanding clause (iv) and
6 except as provided in subclause (II), the Postal
7 Service shall, not later than December 31,
8 2022, arrange for the transmission to the Com-
9 missioner of the information described in para-
10 graphs (1) and (2) for not less than 95 percent
11 of the aggregate number of mail shipments de-
12 scribed in clause (i).

13 “(II) The requirements of subclause (I)
14 may be waived for a period of not more than
15 one year if, not later than December 31,
16 2022—

17 “(aa) the Secretary and the Post-
18 master General, with the concurrence of
19 the Secretary of State, determine that
20 meeting those requirements is not feasible
21 because of—

22 “(AA) the lack of capacity of for-
23 eign postal operators to provide the
24 Postal Service with the information

1 described in paragraphs (1) and (2);
2 or

3 “(BB) extraordinary reasons
4 other than lack of capacity of foreign
5 postal operators that are outside the
6 control of the Postal Service; or

7 “(bb) the Secretary of State deter-
8 mines that such a waiver is in the national
9 security interests of the United States.

10 “(vii) Not later than 15 days before mak-
11 ing a determination under clause (v) or (vi)
12 that meeting the requirements of that clause is
13 not feasible, the Secretary and the Postmaster
14 General shall submit to the appropriate con-
15 gressional committees a notification of the de-
16 termination. The notification shall include—

17 “(I) in the case of a determination
18 under clause (v)(II)(aa)(AA) or
19 (vi)(II)(aa)(AA)—

20 “(aa) a list of which foreign post-
21 al operators lack the capacity to pro-
22 vide the information described in
23 paragraphs (1) and (2) to the Postal
24 Service;

1 “(bb) a description of the efforts
2 by the Postal Service made to obtain
3 that information from those operators;
4 and

5 “(cc) a plan for obtaining that
6 information from those operators; and

7 “(II) in the case of a determination
8 under clause (v)(II)(aa)(BB) or
9 (vi)(II)(aa)(BB)—

10 “(aa) a description of the ex-
11 traordinary reasons outside the con-
12 trol of the Postal Service; and

13 “(bb) a plan for obtaining the
14 transmission of information described
15 in paragraphs (1) and (2) as required
16 by clause (v) or (vi), as applicable.

17 “(viii) The Secretary and the Postmaster
18 General may, in consultation with the Secretary
19 of State, as necessary, take all appropriate re-
20 medial measures necessary to ensure compli-
21 ance with regulations prescribed under clause
22 (i) and consistent with the obligations of the
23 United States under international agreements,
24 including refusal of shipments for which the in-
25 formation described in paragraphs (1) and (2)

1 is not transmitted as required under this sub-
2 paragraph.

3 “(ix) Nothing in this subparagraph shall
4 be construed to limit the authority of the Sec-
5 retary to obtain information relating to inter-
6 national mail shipments from private carriers or
7 other appropriate parties.

8 “(x) In this subparagraph, the term ‘ap-
9 propriate congressional committees’ means—

10 “(I) the Committee on Finance and
11 the Committee on Homeland Security and
12 Governmental Affairs of the Senate; and

13 “(II) the Committee on Ways and
14 Means and the Committee on Oversight
15 and Government Reform of the House of
16 Representatives.”.

17 (2) JOINT STRATEGIC PLAN ON MANDATORY
18 ADVANCE INFORMATION.—Not later than 60 days
19 after the date of the enactment of this Act, the Sec-
20 retary of Homeland Security and the Postmaster
21 General shall develop and submit to the appropriate
22 congressional committees a joint strategic plan de-
23 tailing specific performance measures for achiev-
24 ing—

1 (A) the transmission of information as re-
2 quired by section 343(a)(3)(K) of the Trade
3 Act of 2002, as amended by paragraph (1); and

4 (B) the presentation by the Postal Service
5 to U.S. Customs and Border Protection of all
6 mail targeted by U.S. Customs and Border Pro-
7 tection for inspection.

8 (b) CAPACITY BUILDING.—

9 (1) IN GENERAL.—Section 343(a) of the Trade
10 Act of 2002 (Public Law 107–210; 19 U.S.C. 2071
11 note) is amended by adding at the end the following:

12 “(5) CAPACITY BUILDING.—

13 “(A) IN GENERAL.—The Secretary, with
14 the concurrence of the Secretary of State, and
15 in coordination with the Postmaster General
16 and the heads of other Federal agencies, as ap-
17 propriate, may provide technical assistance,
18 equipment, technology, and training to enhance
19 the capacity of foreign postal operators—

20 “(i) to gather and provide the infor-
21 mation required by paragraph (3)(K); and

22 “(ii) to otherwise gather and provide
23 postal shipment information related to—

24 “(I) terrorism;

1 “(II) items the importation or in-
2 troduction of which into the United
3 States is prohibited or restricted, in-
4 cluding controlled substances; and

5 “(III) such other concerns as the
6 Secretary determines appropriate.

7 “(B) PROVISION OF EQUIPMENT AND
8 TECHNOLOGY.—With respect to the provision of
9 equipment and technology under subparagraph
10 (A), the Secretary may lease, loan, provide, or
11 otherwise assist in the deployment of such
12 equipment and technology under such terms
13 and conditions as the Secretary may prescribe,
14 including nonreimbursable loans or the transfer
15 of ownership of equipment and technology.”.

16 (2) JOINT STRATEGIC PLAN ON CAPACITY
17 BUILDING.—Not later than one year after the date
18 of the enactment of this Act, the Secretary of Home-
19 land Security and the Postmaster General shall, in
20 consultation with the Secretary of State, jointly de-
21 velop and submit to the appropriate congressional
22 committees a joint strategic plan—

23 (A) detailing the extent to which U.S. Cus-
24 toms and Border Protection and the United
25 States Postal Service are engaged in capacity

1 building efforts under section 343(a)(5) of the
2 Trade Act of 2002, as added by paragraph (1);

3 (B) describing plans for future capacity
4 building efforts; and

5 (C) assessing how capacity building has in-
6 creased the ability of U.S. Customs and Border
7 Protection and the Postal Service to advance
8 the goals of this Act and the amendments made
9 by this Act.

10 (c) REPORT AND CONSULTATIONS BY SECRETARY OF
11 HOMELAND SECURITY AND POSTMASTER GENERAL.—

12 (1) REPORT.—Not later than 180 days after
13 the date of the enactment of this Act, and annually
14 thereafter until 3 years after the Postmaster Gen-
15 eral has met the requirement under clause (vi) of
16 subparagraph (K) of section 343(a)(3) of the Trade
17 Act of 2002, as amended by subsection (a)(1), the
18 Secretary of Homeland Security and the Postmaster
19 General shall, in consultation with the Secretary of
20 State, jointly submit to the appropriate congres-
21 sional committees a report on compliance with that
22 subparagraph that includes the following:

23 (A) An assessment of the status of the reg-
24 ulations required to be promulgated under that
25 subparagraph.

1 (B) An update regarding new and existing
2 agreements reached with foreign postal opera-
3 tors for the transmission of the information re-
4 quired by that subparagraph.

5 (C) A summary of deliberations between
6 the United States Postal Service and foreign
7 postal operators with respect to issues relating
8 to the transmission of that information.

9 (D) A summary of the progress made in
10 achieving the transmission of that information
11 for the percentage of shipments required by
12 that subparagraph.

13 (E) An assessment of the quality of that
14 information being received by foreign postal op-
15 erators, as determined by the Secretary of
16 Homeland Security, and actions taken to im-
17 prove the quality of that information.

18 (F) A summary of policies established by
19 the Universal Postal Union that may affect the
20 ability of the Postmaster General to obtain the
21 transmission of that information.

22 (G) A summary of the use of technology to
23 detect illicit synthetic opioids and other illegal
24 substances in international mail parcels and

1 planned acquisitions and advancements in such
2 technology.

3 (H) Such other information as the Sec-
4 retary of Homeland Security and the Post-
5 master General consider appropriate with re-
6 spect to obtaining the transmission of informa-
7 tion required by that subparagraph.

8 (2) CONSULTATIONS.—Not later than 180 days
9 after the date of the enactment of this Act, and
10 every 180 days thereafter until the Postmaster Gen-
11 eral has met the requirement under clause (vi) of
12 section 343(a)(3)(K) of the Trade Act of 2002, as
13 amended by subsection (a)(1), to arrange for the
14 transmission of information with respect to not less
15 than 95 percent of the aggregate number of mail
16 shipments described in clause (i) of that section, the
17 Secretary of Homeland Security and the Postmaster
18 General shall provide briefings to the appropriate
19 congressional committees on the progress made in
20 achieving the transmission of that information for
21 that percentage of shipments.

22 (d) GOVERNMENT ACCOUNTABILITY OFFICE RE-
23 PORT.—Not later than December 31, 2020, the Comp-
24 troller General of the United States shall submit to the
25 appropriate congressional committees a report—

1 (1) assessing the progress of the United States
2 Postal Service in achieving the transmission of the
3 information required by subparagraph (K) of section
4 343(a)(3) of the Trade Act of 2002, as amended by
5 subsection (a)(1), for the percentage of shipments
6 required by that subparagraph;

7 (2) assessing the quality of the information re-
8 ceived from foreign postal operators for targeting
9 purposes;

10 (3) assessing the specific percentage of targeted
11 mail presented by the Postal Service to U.S. Cus-
12 toms and Border Protection for inspection;

13 (4) describing the costs of collecting the infor-
14 mation required by such subparagraph (K) from for-
15 eign postal operators and the costs of implementing
16 the use of that information;

17 (5) assessing the benefits of receiving that in-
18 formation with respect to international mail ship-
19 ments;

20 (6) assessing the feasibility of assessing a cus-
21 toms fee under section 13031(b)(9) of the Consoli-
22 dated Omnibus Budget Reconciliation Act of 1985,
23 as amended by section 2, on international mail ship-
24 ments other than Inbound Express Mail service in a

1 manner consistent with the obligations of the United
2 States under international agreements; and

3 (7) identifying recommendations, including rec-
4 ommendations for legislation, to improve the compli-
5 ance of the Postal Service with such subparagraph
6 (K), including an assessment of whether the detec-
7 tion of illicit synthetic opioids in the international
8 mail would be improved by—

9 (A) requiring the Postal Service to serve as
10 the consignee for international mail shipments
11 containing goods; or

12 (B) designating a customs broker to act as
13 an importer of record for international mail
14 shipments containing goods.

15 (e) TECHNICAL CORRECTION.—Section 343 of the
16 Trade Act of 2002 (Public Law 107–210; 19 U.S.C. 2071
17 note) is amended in the section heading by striking “**AD-**
18 **VANCED**” and inserting “**ADVANCE**”.

19 (f) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
20 FINED.—In this section, the term “appropriate congres-
21 sional committees” means—

22 (1) the Committee on Finance and the Com-
23 mittee on Homeland Security and Governmental Af-
24 fairs of the Senate; and

1 (2) the Committee on Ways and Means and the
2 Committee on Oversight and Government Reform of
3 the House of Representatives.

4 **SEC. 4. INTERNATIONAL POSTAL AGREEMENTS.**

5 (a) **EXISTING AGREEMENTS.**—Any regulations pre-
6 scribed under section 343(a)(3)(K) of the Trade Act of
7 2002, as amended by section 3(a)(1), shall be consistent
8 with the obligations of the United States under inter-
9 national agreements.

10 (b) **FUTURE AGREEMENTS.**—

11 (1) **CONSULTATIONS.**—Before entering into, on
12 or after the date of the enactment of this Act, any
13 postal treaty, convention, or other international
14 agreement related to international postal services, or
15 any amendment to such an agreement, that could re-
16 strict the ability of the United States to secure the
17 provision of advance electronic information by for-
18 eign postal operators, the Secretary of State should
19 consult with the appropriate congressional commit-
20 tees (as defined in section 3(f)).

21 (2) **EXPEDITED NEGOTIATION OF NEW AGREE-**
22 **MENT.**—To the extent that any new postal treaty,
23 convention, or other international agreement related
24 to international postal services is necessary to secure
25 the provision of advance electronic information by

1 foreign postal operators as required by regulations
2 prescribed under section 343(a)(3)(K) of the Trade
3 Act of 2002, as amended by section 3(a)(1), the Sec-
4 retary of State should expeditiously conclude such
5 an agreement.

6 **SEC. 5. COST RECOUPMENT.**

7 (a) IN GENERAL.—The United States Postal Service
8 shall, to the extent practicable and otherwise recoverable
9 by law, ensure that all costs associated with complying
10 with this Act and amendments made by this Act are
11 charged directly to foreign shippers or foreign postal oper-
12 ators.

13 (b) COSTS NOT CONSIDERED REVENUE.—The recov-
14 ery of costs under subsection (a) shall not be deemed rev-
15 enue for purposes of subchapter I and II of chapter 36
16 of title 39, United States Code, or regulations prescribed
17 under that chapter.

18 **SEC. 6. DEVELOPMENT OF TECHNOLOGY TO DETECT IL-**
19 **LICIT NARCOTICS.**

20 (a) IN GENERAL.—The Postmaster General and the
21 Commissioner of U.S. Customs and Border Protection, in
22 coordination with the heads of other agencies as appro-
23 priate, shall collaborate to identify and develop technology
24 for the detection of illicit fentanyl, other synthetic opioids,

1 and other narcotics and psychoactive substances entering
2 the United States by mail.

3 (b) **OUTREACH TO PRIVATE SECTOR.**—The Post-
4 master General and the Commissioner shall conduct out-
5 reach to private sector entities to gather information re-
6 garding the current state of technology to identify areas
7 for innovation relating to the detection of illicit fentanyl,
8 other synthetic opioids, and other narcotics and
9 psychoactive substances entering the United States.

10 **SEC. 7. EFFECTIVE DATE; REGULATIONS.**

11 (a) **EFFECTIVE DATE.**—This Act and the amend-
12 ments made by this Act (other than the amendments made
13 by section 2) shall take effect on the date of the enactment
14 of this Act.

15 (b) **REGULATIONS.**—Not later than one year after the
16 date of the enactment of this Act, such regulations as are
17 necessary to carry out this Act and the amendments made
18 by this Act shall be prescribed.

○